

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: StaceyAnn McFarlane-Ross	Team: Squad #15	CCRB Case #: 201700248	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 11/23/2016 8:00 AM	Location of Incident: [REDACTED]	Precinct: 68	18 Mo. SOL 5/23/2018	EO SOL 5/23/2018	
Date/Time CV Reported Mon, 01/09/2017 5:19 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 01/09/2017 5:19 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT Girolamo Barbara	00296	918572	068 PCT
2. POM Salvatore Aquino	02958	948625	068 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Joseph Singh	21205	959246	068 PCT
2. POM Mina Ghandour	05208	949019	068 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Girolamo Barbara	Force: At § 87(2)(b), in Brooklyn, Sergeant Girolamo Barbara used physical force against § 87(2)(b)	[REDACTED]
B.POM Salvatore Aquino	Force: At § 87(2)(b), in Brooklyn, Police Officer Salvatore Aquino used physical force against § 87(2)(b)	[REDACTED]
C.SGT Girolamo Barbara	Discourtesy: At § 87(2)(b), in Brooklyn, Sergeant Girolamo Barbara spoke discourteously to § 87(2)(b)	[REDACTED]
D.SGT Girolamo Barbara	Off. Language: At § 87(2)(b), in Brooklyn, Sergeant Girolamo Barbara made remarks to § 87(2)(b) based upon her gender	[REDACTED]
E.SGT Girolamo Barbara	Discourtesy: At § 87(2)(b), in Brooklyn, Sergeant Girolamo Barbara spoke discourteously to § 87(2)(b)	[REDACTED]

Case Summary

On November 23, 2016, at approximately 8:00 a.m., § 87(2)(b) ingested 70 to 75 sedative tablets called Clonazepam, and informed her father, § 87(2)(b) § 87(2)(b) of her actions via text. § 87(2)(b) § 87(2)(b) called 911 and informed them of § 87(2)(b) § 87(2)(b)'s actions, in which EMS and the police department were dispatched to § 87(2)(b) § 87(2)(b)'s former home located at § 87(2)(b) § 87(2)(b) in Brooklyn. According to the Event Chronology's description, it reported § 87(2)(b) § 87(2)(b) took pills, her location and identified the incident as an emotionally disturbed person (EDP) inside the apartment [NYPD 01]. Approximately 15 minutes after § 87(2)(b) § 87(2)(b) notified § 87(2)(b) § 87(2)(b) EMTs § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) arrived to her apartment and knocked on her door for approximately four minutes. After the EMTs identified themselves, § 87(2)(b) § 87(2)(b) eventually answered the door, and walked back to her bedroom where she interacted with them. During that time EMT § 87(2)(b) § 87(2)(b) and EMT § 87(2)(b) § 87(2)(b) took § 87(2)(b) § 87(2)(b)'s vitals, and explained to her that she had to go to the hospital. § 87(2)(b) § 87(2)(b) refused to go with them to the hospital and informed EMT § 87(2)(b) § 87(2)(b) and EMT § 87(2)(b) § 87(2)(b) that she was tired and wanted to sleep. During EMT § 87(2)(b) § 87(2)(b)'s CCRB interview, she explained that two officers, who the investigation identified as Sgt. Girolamo Barbara and PO Salvatore Aquino of the 68th Precinct, were dispatched to the location. One of the officers explained to § 87(2)(b) § 87(2)(b) that she could leave with them willingly to the hospital or she could be handcuffed and leave unwillingly to the hospital. It was further explained to § 87(2)(b) § 87(2)(b) that she was not under arrest and that it was standard protocol. § 87(2)(b) § 87(2)(b) refused and expressed no desire to go to the hospital. As § 87(2)(b) § 87(2)(b) got dressed, EMT § 87(2)(b) § 87(2)(b) and EMT § 87(2)(b) § 87(2)(b) explained to § 87(2)(b) § 87(2)(b) that she would be escorted to the ambulance.

As § 87(2)(b) § 87(2)(b) was exiting her bedroom, Sgt. Barbara reached for § 87(2)(b) § 87(2)(b)'s arms to place her in handcuffs. § 87(2)(b) § 87(2)(b) asked why she had to be handcuffed, and Sgt. Barbara responded that he was taking her to the ambulance. At that point, Sgt. Barbara allegedly pushed § 87(2)(b) § 87(2)(b) to the ground where she fell on her stomach. Sgt. Barbara twisted her left arm behind her back and placed his knee on her back (**Allegation A**). Once his knee touched her back, § 87(2)(b) § 87(2)(b) kicked back and hit Sgt. Barbara in his left knee. At that same time, PO Aquino assisted Sgt. Barbara by getting a hold of § 87(2)(b) § 87(2)(b)'s right arm until she was handcuffed (**Allegation B**). Once § 87(2)(b) § 87(2)(b) was handcuffed, she was escorted to the ambulance where she attempted to apologize to Sgt. Barbara for hurting him. Sgt. Barbara allegedly told § 87(2)(b) § 87(2)(b) "You're going to fucking jail. You're going to be felon." During EMT § 87(2)(b) § 87(2)(b)'s sworn statement, he alleged that Sgt. Barbara called § 87(2)(b) § 87(2)(b) a "fucking bitch" (**Allegations C and D**). A short time later, additional units, PO Joseph Singh and Mina Ghandour of the 68th Precinct arrived to the location and escorted § 87(2)(b) § 87(2)(b) to the hospital. § 87(2)(b) § 87(2)(b) and Sgt. Barbara were transported to § 87(2)(b) § 87(2)(b) in Brooklyn. § 87(2)(b) § 87(2)(b) explained that while she was being treated she attempted to speak to Sgt. Barbara, and he allegedly told her, "Don't fucking talk to me. You're going to fucking jail" (**Allegation E**).

§ 87(2)(b) § 87(2)(b) was arrested for this incident § 87(2)(b) § 87(2)(b).

This case is being submitted after the 90 days benchmark because § 87(2)(b) § 87(2)(b) moved to Florida the day after she provided her unverified telephone statement on January 12, 2017. She returned to New York in February and was interviewed at the CCRB on February 16, 2017. Furthermore,

§ 87(2)(b) and § 87(2)(b) are EMTs for a private company and there was a delay in scheduling them. Additionally, there were scheduling issues with the officers involved.

Mediation, Civil and Criminal Histories

- This case is unsuitable for mediation because § 87(2)(b) was arrested.
- On February 24, 2017, a notice of claim inquiry was sent to the Office of the New York City Comptroller and it revealed that § 87(2)(b) is suing the City of New York for one million dollars (Board Review 05).
- According to a search of the New York State office of Court Administration database and the ECOURTS database, § 87(2)(b) does not have any criminal convictions (Board Review 13). § 87(2)(g), § 87(2)(b)
- On May 4, 2017, the New York State office of Court Administration database revealed that there are no records found in regards to whether a 50H hearing has been scheduled or held for § 87(2)(b) (Board Review 14).

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (Board Review 14).
- Sgt. Barbara has been a member of the service for 20 years and this is the first CCRB complaint filed against him.
- PO Aquino has been a member of the service for six years and has been the subject of 12 previous CCRB allegations involving four cases. In CCRB case number 201400815, a physical force allegation was unsubstantiated against PO Aquino. In CCRB case number 201506118, three force allegations were filed against PO Aquino. The force by chokehold allegation was unsubstantiated, the physical force allegation was exonerated and the force by other allegation was unsubstantiated.

Findings and Recommendations

Explanation of Subject Officer Identification

- In § 87(2)(b)'s online CCRB complaint form, she identified the subject officer as "Police Officer" Girolamo Barbara and described him as a tall white male with gray hair, and in his forties wearing uniform (Board Review 01). In her unverified telephone statement, § 87(2)(b) described the subject officer as a white male, in his mid to late 40's, 5'10" tall with grayish hair, stocky build but under 200 pounds. From the name plate on the officer's uniform, she observed the name Barbara, and was told his first name, Girolamo, when she asked at the hospital (Board Review 02). In § 87(2)(b)'s verified statement, she identified the subject officer as Barbara and described him as a white male with gray hair, wearing glasses, in his early 50's, approximately 5'10" to 5'11" tall and about 200 pounds (Board Review 03). From the NYPD photograph, § 87(2)(b) As a result, the allegations are being pled against Sgt. Barbara.

- In § 87(2)(b)'s unverified telephone statement, she described the second subject officer as a white male in his late 20's to early 30's, 5'6" to 5'7" tall, with dark brown hair and wearing uniform (Board Review 02). In § 87(2)(b)'s verified statement, she identified the subject officer as a white male with dark brown hair in his early 30's, approximately 5'7" to 5'8" tall and husky build (Board Review 03). In the Line of Duty Report and witness statement, PO Aquino identified himself as present when Sgt. Barbara was injured [NYPD 09]. § 87(2)(b)

§ 87(2)(b). As a result, the allegation is being pled against PO Aquino.

Allegation A -Force: At § 87(2)(b) in Brooklyn, Sergeant Girolamo Barbara used physical force against § 87(2)(b)

Allegation B- Force: At § 87(2)(b), in Brooklyn, Police Officer Salvatore Aquino used physical force against § 87(2)(b)

In § 87(2)(b)'s verified statement, she stated that EMT § 87(2)(b) and EMT § 87(2)(b) explained to her that she had to be taken to the hospital because she ingested 70 to 75 sedative pills. § 87(2)(b) was in the process of leaving her bedroom when Sgt. Barbara approached her with his handcuffs and attempted to get a hold of her arm. § 87(2)(b) did not allow Sgt. Barbara to get a hold of her arm the first time and asked him why she needed to be handcuffed. Sgt. Barbara informed her that he was escorting her to the ambulance. Sgt. Barbara got a hold of § 87(2)(b)'s left wrist to put the handcuffs on. As Sgt. Barbara struggled to place the handcuffs on, he pushed § 87(2)(b) to the ground where her right arm was tucked under her body. He grabbed her left arm and twisted it behind her while she screamed, "You're going to break my arm," several times. As Sgt. Barbara tried to get a hold of her arm that was under her body, he placed his knee in her lower back and instructed her to let go. Immediately as Sgt. Barbara's knee made contact with § 87(2)(b)'s back, she kicked back and hit his leg. PO Aquino assisted Sgt. Barbara by getting a hold of § 87(2)(b)'s right arm and putting the handcuffs on (Board Review 03).

During EMT § 87(2)(b)'s CCRB interview, she testified that although the officers explained to § 87(2)(b) her options of either going to the hospital with them voluntarily or leaving against her will, she responded in an agitated manner that she did not want to go. EMT § 87(2)(b) explained that § 87(2)(b) was informed by the officers that she was not under arrest at any point and it was a standard protocol. EMT § 87(2)(b) explained that § 87(2)(b) began walking around the apartment and entered the kitchen which posed a threat to everyone. A few minutes later, Sgt. Barbara approached § 87(2)(b) and instructed her to put her hands behind her. As Sgt. Barbara attempted to put the handcuffs on, § 87(2)(b) fell to the ground and landed in her bedroom on her stomach. § 87(2)(b) was squirming around on the ground to get away from Sgt. Barbara. As he knelt on the ground to get a hold of her arms, § 87(2)(b) kicked him in one of his knees. PO Aquino assisted Sgt. Barbara in handcuffing § 87(2)(b) while they instructed her to stop resisting (Board Review 07).

EMT § 87(2)(b) corroborated EMT § 87(2)(b)'s statement that § 87(2)(b) was walking around the apartment, but noted she was gathering items for the hospital and did not appear to be a threat to anyone. After a while, Sgt. Barbara informed § 87(2)(b) that she had to go to the hospital and she refused. Sgt. Barbara instructed § 87(2)(b) to put her hands behind her and § 87(2)(b) asked why Sgt. Barbara pushed § 87(2)(b) against the wall to handcuff her. As § 87(2)(b) continued to resist, Sgt. Barbara threw § 87(2)(b) to the ground, and placed his

knee on her mid-back to handcuff her. PO Aquino assisted Sgt. Barbara by holding her legs until she was handcuffed. As Sgt. Barbara and PO Aquino attempted to escort § 87(2)(b) to the ambulance, EMT § 87(2)(b) observed her leg kicked back. EMT § 87(2)(b) did not see where her leg made contact (Board Review 08).

Sgt. Barbara and PO Aquino testified that it is procedural to restrain an emotionally disturbed person to prevent them from further harming themselves and when they have to be transported to the hospital. Sgt. Barbara and PO Aquino confirmed that Sgt. Barbara explained to § 87(2)(b) that she was being handcuffed for safety purposes, and § 87(2)(b) became upset and refused by putting her arms in the air or having a combative stance. § 87(2)(b) further refused to be handcuffed by falling to the ground inside her bedroom (Board Review 10, 11). Sgt. Barbara and PO Aquino went to § 87(2)(b)'s level kneeling to put the handcuffs on her. PO Aquino described the actions he and Sgt. Barbara took as "regular physical force" in which they both grabbed § 87(2)(b)'s arms and twisted them behind her as Sgt. Barbara put the handcuffs on her (Board Review 10).

NYPD Patrol Guide Procedure 221-13 explains if an emotionally disturbed person is a danger to themselves or others, necessary force may be used to prevent serious physical injury or death. Physical force will be used only to the extent necessary to restrain the subject until delivered to a hospital or detention facility (Board Review 15). Prior to the EMTs and officers arriving to § 87(2)(b)'s home, she was described as an emotionally disturbed person who had taken over 70 sedative pills. § 87(2)(b), § 87(2)(g)

§ 87(2)(g), § 87(2)(b)

Allegation C- Discourtesy: At § 87(2)(b), in Brooklyn, Sergeant Girolamo Barbara spoke discourteously to § 87(2)(b)

Allegation E- Discourtesy: At § 87(2)(b), in Brooklyn, Sergeant Girolamo Barbara spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that once she was escorted outside to the ambulance she attempted to apologize to Sgt. Barbara but he allegedly responded, "You're going to fucking jail. You're going to be a felon." When § 87(2)(b) was at § 87(2)(b), she saw Sgt. Barbara again and tried to speak to him. Sgt. Barbara told her, "Don't fucking talk to me. You're going to fucking jail" (Board Review 03).

EMT § 87(2)(b) testified that once everyone was outside and § 87(2)(b) was in the ambulance, § 87(2)(b) asked Sgt. Barbara not to press charges. Sgt. Barbara responded, "You just kicked me in my knee where I had an injury." EMT § 87(2)(b) explained she did not hear Sgt. Barbara use any profanity towards § 87(2)(b) (Board Review 07).

EMT § 87(2)(b) explained that Sgt. Barbara and § 87(2)(b) argued while they were outside and by the ambulance. EMT § 87(2)(b) heard Sgt. Barbara tell § 87(2)(b) that he was going to press charges. After § 87(2)(b) inquired why and was informed that she kicked Sgt. Barbara,

she began apologizing. Sgt. Barbara did not accept her apology and called § 87(2)(b) a “fucking bitch” and told her that she was going to “fucking jail” (Board Review 08).

Sgt. Barbara explained once he was kicked, he allowed PO Aquino to escort § 87(2)(b) to the ambulance while he followed behind. Outside, § 87(2)(b) was “babbling” about something, but he “tuned her out”. Sgt. Barbara responded to § 87(2)(b) “Good luck with everything, but you are under arrest.” He had no further interaction with § 87(2)(b). Sgt. Barbara denied using any profanity towards § 87(2)(b) (Board Review 11).

PO Singh testified that upon his arrival to the incident location, everyone was already outside and stood nearby the ambulance. PO Singh heard § 87(2)(b) tell Sgt. Barbara, “I’m sorry. I did not mean to hurt you.” PO Singh did not hear Sgt. Barbara respond to § 87(2)(b) (Board Review 09). PO Aquino testified that he did not hear § 87(2)(b) speak to Sgt. Barbara when she was placed in the ambulance. While at the location additional units, who the investigation identified as PO Singh and PO Mina Ghandour, arrived to the location. PO Ghandour testified that once he arrived at the location, § 87(2)(b) was already placed inside the ambulance. He did not see her, nor remember seeing Sgt. Barbara interact with § 87(2)(b). PO Ghandour explained that he followed behind the ambulance that had § 87(2)(b) and he stayed with her for many hours guarding her. He did not see Sgt. Barbara at the hospital while he guarded § 87(2)(b) (Board Review 12).

§ 87(2)(g), § 87(2)(b)

Allegation D- Offensive Language: At § 87(2)(b), in Brooklyn, Sergeant Girolamo Barbara made remarks to § 87(2)(b) based upon her gender

EMT § 87(2)(b) testified that Sgt. Barbara called § 87(2)(b) a “fucking bitch” (Board Review 08). § 87(2)(b) did not make that allegation during her initial complaint or her CCRB interview (Board Review 01, 03).

Sgt. Barbara denied calling § 87(2)(b) a “bitch” (Board Review 11).

EMT § 87(2)(b) PO Aquino, PO Singh, and PO Ghandour all testified that Sgt. Barbara did not have any further interaction with § 87(2)(b) while they were outside by the ambulance. Additionally, they all testified that Sgt. Barbara did not call § 87(2)(b) a “bitch” or use any form of profanity towards her (Board Review 07, 09, 10, 12).

§ 87(2)(g), § 87(2)(b)

Squad: 15

Investigator: _____

Signature

Print

Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date